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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/503,401	02/14/2000	Ramin Rezaiifar	QCPA451DIV2	6558
23696	7590	07/06/2005	EXAMINER	
Qualcomm Incorporated Patents Department 5775 Morehouse Drive San Diego, CA 92121-1714			PHILPOTT, JUSTIN M	
			ART UNIT	PAPER NUMBER
			2665	

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/503,401

Applicant(s)

REZAIIFAR ET AL.

Examiner

Justin M. Philpott

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the newly amended claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Specifically, applicant argues that the previously cited art does not teach the newly added limitation of using one data transmission channel. However, applicant's invention clearly teaches accommodating the IS-95 standard (specification, page 1, line 34) and the newly cited art of Odenwalder clearly teaches that it is well known in that art that the IS-95 standard includes transmitting data using one data transmission channel. Accordingly, applicant's claims are rejected in the following action in view of the prior art.

Claim Rejections - 35 USC § 103

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,137,789 to Honkasalo in view of U.S. Patent No. 5,930,230 to Odenwalder et al.

Regarding claim 1, Honkasalo discloses a mobile station for requesting multiple code channels for high speed data transmission. The mobile station requests a number of parallel code channels and a base station signals an assigned number of channels for a given period of time (col. 5, lines 58-67). Honkasalo shows data rates dependent on the number Supplemental Code Channels in Table I (col. 7, lines 1-12). The data rate of transmission is implicitly stated in the number of channels assigned to the mobile station by the base station. The assignment of a data rate is necessarily transmitted to the mobile station prior to and independent of data transmission.

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The base station must first transmit the assignment of channels before a mobile station can transmit data on those channels. Thus, the signaling of assigned channels and given period of time by the base station meets the limitations of transmitting a message indicative of the rate of said data prior to and independent of data transmission and the time interval over which data transmission will be transmitted.

However, Honkasalo may not specifically disclose that data is transmitted using one data transmission channel.

Odenwalder also teaches a method for transmitting data, and specifically, teaches in accordance with the IS-95 standard, data is transmitted using one data transmission channel (e.g., see col. 2, lines 1-13). Further, applicant's specification specifically discloses that applicant's invention is in accordance with the well known teachings of the IS-95 standard (e.g., see specification, page 1, line 34). Additionally, the teachings of Odenwalder provide increased rate of transmission and increased bandwidth efficiency (e.g., see col. 2, line 36 – col. 7, line 46). Thus, at the time of the invention it would have been obvious to one of ordinary skill in the art to apply the teachings of Odenwalder to the method of Honkasalo in order to provide increased rate of transmission and increased bandwidth efficiency, and further, since applicant discloses that applicant's invention is in accordance with the well known teachings of the IS-95 standard and since such teachings by Odenwalder are specific, well known, teachings in accordance with the IS-95 standard.

Regarding claim 2, the frame type is inherent in the signaling of assigned code channels. Honkasalo discloses that supplemental code channels may be used by the mobile station to

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transmit high speed data (col. 5, lines 58-67). Thus, in response to a mobile station request, the signaling from the base station indicates the number of assigned supplemental code channels, whereby supplemental channel is the frame type.

Regarding claim 3, Honkasalo discloses signaling a data transmission rate, time interval and frame type from a base station to a mobile station (col. 5, lines 58-67, see also Table 1). Honkasalo fails to expressly disclose that the frame type is indicated by two bits and that the data transmission rate and time interval are both indicated by four bits. However, it is generally considered to be within the ordinary skill in the art to adjust, vary, select or optimize the numerical parameters or values of any system absent a showing of criticality in a particular recited value. The burden of showing criticality is on Applicant. *In re Mason*, 87 F.2d 370, 32 USPQ 242 (CCPA 1937), *Marconi Wireless Telegraph Co. v. U.S.*, 320 U.S. 1, 57 USPQ 471 (1943), *In re Schneider*, 148 F.2d 108, 65 USPQ 129 (CCPA 1945), *In re Aller*, 220 F.2d 454, 105 USPQ 233 (CCPA 1955), *In re Saether*, 492 F.2d 849, 18 1 USPQ 36 (CCPA 1974), *In re Antonie*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977),* *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to use as many bits as necessary to indicate the frame type, data rate and time interval in the invention of Honkasalo. One of ordinary skill in the art would have been motivated to do this because the number of bits needed to indicate these values may be greater or less than the specified number depending on the system implementation. For example, Honkasalo indicates that the data rate is specified by the number of supplemental channels that are assigned. If a maximum of eight channels may be assigned, then only three bits are necessary to indicate the data rate.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Philpott whose telephone number is 571.272.3162. The examiner can normally be reached on M-F, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. Vu can be reached on 571.272.3155. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Justin M Philpott



ALPUS H. HSU
PRIMARY EXAMINER